Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

CITY COUNTY COUNCIL

PROPOSAL NO. 127, 2010

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

INTRODUCED: 04/26/2010

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillor Hunter

DIGEST: amends the Code to rename, as the division of homeland security, the emergency

management planning division of the department of public safety, and to make other technical corrections

SOURCE:

Initiated by: Department of Public Safety

Drafted by: Mark A. Mertz, Assistant Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

PROPOSED EFFECTIVE DATE:

Adoption and approvals

Subject to approval or veto by Mayor

GENERAL COUNSEL APPROVAL: _____ Date: April 21, 2010

CITY-COUNTY GENERAL ORDINANCE NO. , 2010

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to rename, as the division of homeland security, the emergency management planning division of the department of public safety, and to make other technical corrections.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Section 251-101 of the "Revised Code of the Consolidated City and County," regarding the powers of the department of public safety, hereby is amended by the deletion of the language that is strickenthrough, and by the addition of the language that is underscored, to read as follows:

Sec. 251-101. Department of public safety created; duties.

- (a) Created. There is hereby created a department of public safety for the consolidated city as provided by IC 36-3-5-4.
- (b) *Duties*. It shall be the responsibility of the department of public safety to provide fire protection in the fire special service district, to provide police protection in the consolidated city, to operate an animal care and control division, to provide civil defense and emergency management homeland security planning, and to exercise other powers granted by law, the city-county council or the mayor. The department of public safety shall have all powers and duties prescribed for it as of August 31, 1983, subject to IC 36-3-4-23.

SECTION 2. Section 251-212 of the "Revised Code of the Consolidated City and County," regarding the powers and duties of the department of public safety director, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 251-212. Powers and duties of director.

The director of public safety shall have the following duties and powers with respect to the department of public safety:

- (1) To exercise control of all matters and property relating to and connected with the police, fire, emergency management planning homeland security, and animal care and control divisions;
- (2) To coordinate the activities of the department with the sheriff and coroner of the county and any other agencies that can help with the safeguarding of citizens and property throughout the county;
- (3) To purchase all necessary supplies and equipment and make all repairs necessary in the department subject to and in accordance with applicable law;
- (4) To make general and special rules and regulations for the government and discipline of the department, to the extent such duties and powers are not granted to the merit boards of the fire division or police division;
- (5) To fix the number of members and employees of the various divisions;
- (6) To determine and implement policies, procedures, methods and means by which operations are to be conducted:
- (7) To make recommendations to the director of administration relative to civilian employee compensation and benefits;
- (8) To temporarily appoint additional emergency management and civil defense protection forces personnel on application of any person or corporation in response to any emergency, riot or insurrection as declared by the mayor, which persons the director may remove at any time without hearing or notice or assigning any cause;
- (9) To administer the oath or to take depositions of any persons summoned in any proceedings;
- (10) To adopt rules regulating the giving of a bond of an appointee of any division;
- (11)To appoint deputy or assistant directors as necessary;
- (12) To set work schedules and require members and employees of the department to work overtime;
- (13)To initiate, prepare, submit and administer the department's budget in accordance with applicable law;
- (14)To purchase, rent or improve any real estate or personal property, subject to appropriations therefore by the city-county council and subject to the powers of the mayor and the board of public safety;
- (15)To enter into contracts with town or township firefighting companies or associations for mutual civil aid and assistance programs; for, life-saving, firefighting, emergency services, ambulance services; for, mutual communications services, coordinating training programs; and/or central dispatching programs in accordance with applicable law;
- (16)To appoint, receive, suspend, discipline and transfer members of the department pursuant to applicable rules, regulations and statutes;
- (17) To supervise and coordinate the activities of divisions within the department;
- (18)To oversee the daily operation of the department;
- (19)To appoint an administrator to be the head of each division of the department, except the emergency management planning division, subject to the approval of the mayor as provided in IC 36-3-5-5;

(20)To delegate to the personnel employed in the department authority to act in his or her behalf as provided in IC 36-3-5-5(c); and

(21) Any other powers that may be granted by law or by the mayor or the city-county council.

SECTION 3. Section 251-221 of the "Revised Code of the Consolidated City and County," regarding the divisions of the department of public safety, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 251-221. Divisions.

The department of public safety shall be composed of the following divisions:

- (1) Fire division. The duties and powers of the fire division are described in Chapter 252 of this Code.
- (2) Police division. The duties and powers of the police division are described in Chapter 279 of this Code.
- (3) Animal care and control division. The animal care and control division shall be established and have all powers and duties described in Article III of this Chapter, Chapter 531, and any other powers granted by law or by the city-county council or the mayor.
- (4) Emergency management planning dDivision of homeland security. The duties and powers of the emergency management planning division of homeland security are described in Article IV of this chapter.

SECTION 4. Section 251-231 of the "Revised Code of the Consolidated City and County," regarding the board of public safety, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 251-231. Board of public safety.

- (a) Established. There is hereby established a board of public safety pursuant to IC 36-3-5-6 and IC 36-3-4-23.
- (b) Members. The board shall be composed of five (5) members; the department director who serves as presiding member of the board; two (2) members appointed by the mayor and two (2) members appointed by the city-county council. Each appointed member shall serve a one-year term and until his successor is appointed and qualified, but serves at the pleasure of the appointing authority. In the event of a vacancy prior to the expiration of a term, the appointing authority shall appoint a member for the remainder of the unexpired term.
- (c) *Meetings*. The board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. No notice to members is required for holding or taking any action at a regular meeting. A special meeting of the board may be called by the presiding officer or by two-fifths of the members, at any place in the county designated in the call. Each member shall be notified of the time and place of such a meeting by written notice which must be delivered, mailed or sent by telegram so that each member has at least seventy-two (72) hours' notice of the meeting. The notice requirements may be waived as to a member if he attends the meeting or executes a written waiver of notice. The waiver may be executed either before or after the meeting, but if executed after, it must state in general terms the purpose of the meeting.
- (d) Board action. A majority of all the members of the board constitutes a quorum. A majority vote of all the board members is required to pass a resolution.

- (e) Powers. The board of public safety shall have the following powers:
- (1) To review all budgets prepared by the department and recommend to the director any revisions the board feels desirable:
- (2) To approve the award and amendment of contracts let by the department for the purchase or lease of capital equipment or other property where the contract is required to be bid under IC 36-1-9:
- (3) To approve the award and amendment of public construction contracts let by the department which are required to be bid under IC 36-1-12;
- (4) To approve the acquisition of and leases for real estate by the department;
- (5) To approve the employment of persons engaged by the department by contract to render professional or consulting services;
- (6) To approve the disposal of property by the department as specified in IC 36-1-11, excluding leases of real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment;
- (7) To make recommendations and suggestions to the director regarding the fiscal policy and management of the department and assist the director as he requests in the resolution of other issues and problems relating to departmental operations; and
- (8) To act as the county civil defense advisory council pursuant to IC 10-4-1-10; and
- (98)Any other powers granted to the board by law or by the mayor or the city-county council.

SECTION 5. Article IV of the "Revised Code of the Consolidated City and County," regarding the emergency management planning division, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

ARTICLE IV. EMERGENCY MANAGEMENT PLANNING DIVISION OF HOMELAND SECURITY

Sec. 251-401. Purpose.

Because of the substantial natural, technological, man-caused and national security hazards faced by Marion County and because of the need to establish a continuing program for preventing, preparing for, responding to and recovering from emergencies in an orderly way, this article sets forth a mechanism for emergency management planning. It is intended to supplement the <u>Civil Defense Emergency Management</u> and Disaster Law of 1975 (IC 10-4-1 10-14-3-1 et seq.).

Sec. 251-402. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Civil defense shall mean activities associated with mitigating, preparing for, responding to and recovering from national security hazards associated with hostile military actions, except when specifically used in connection with programs of the Indiana Department of Civil Defense and Emergency Management or when referring to specific provisions of the Indiana Civil Defense and Disaster Law of 1975; in such instances the definition found in that law shall apply.

Coordination shall mean means the establishment of effective communications linkages and other actions, both of a routine and emergency nature, necessary for the orderly development of the county emergency management program plan and for the response to and the recovery from emergencies.

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Emergency shall mean means occurrence or imminent threat of loss of life, illness or injury, damage to public property, private property or the environment resulting from any technological, man-caused, natural or national security hazard including, but not limited to, floods, earthquakes, severe wind, fires, storms, tornadoes, mass transportation accidents, releases of hazardous materials and substances, oil spills, explosions, droughts, riots, structural failure, public extortion, hostage taking, strikes by essential workers, attack, military action, infestations, epidemic, fuel or resource shortages.

Emergency management shall mean means all measures associated with the prevention and mitigation of the effects of major emergencies, development of plans and preparedness for emergencies, response to the acute effects of emergencies and recovery from emergencies of all kinds.

Local disaster emergency means a major emergency which that has resulted in a formal declaration of local state of emergency by the mayor.

Major emergency shall mean means an emergency or threat of emergency which that causes loss of life, injury, illness or damage to public or private property or the environment to a degree greater than that which occurs on a regular basis in the county.

Man-caused hazards shall mean means threats attributable to intentional disruptive actions by humans, including such episodes as riots, public extortion or strikes by essential workers.

Mitigation shall mean means the prevention or the lessening of effects of emergencies when and where possible including the adoption of appropriate ordinances and regulations.

National security hazards shall include means and includes threats attributable to acts or threat of acts by another government, including such episodes as accidental launch of a nuclear or conventional bomb, limited nuclear or conventional warfare, general nuclear or conventional warfare, or any peacetime emergency which that poses a serious threat to the national security.

Natural hazards shall mean means threats attributable to forces of nature, including such episodes as floods, earthquakes, tornadoes or epidemics.

Preparedness shall mean means all of the measures taken preparatory to emergency response and recovery actions including, but not limited to, the preparation and distribution of emergency management plans, training programs for citizens and emergency forces workers, and emergency information, warning and communications systems.

Recovery shall mean means all actions necessary to restore life, limb, property and environment to a condition as nearly like that which prevailed prior to an emergency as possible.

Response shall mean means all of the actions necessary to effectively respond to acute need for protection of life, limb, public property, private property and the environment during an emergency.

Technological hazards shall mean means serious threats attributable to inventions or products of humankind, including such episodes as structural failures, mass transportation accidents, releases of hazardous materials, fires in multiple occupancy buildings.

Sec. 251-403. Duties, powers.

The emergency management planning division of homeland security shall:

- (1) Coordinate and direct the development of a program of county emergency management for Marion County. Such program plan that shall involve all sectors of government and the private sector; shall address all threats or emergencies from all hazards, including natural, technological, man-caused and national security hazards; and shall include mitigation, preparedness, response and recovery activities.;
- (2) Prepare, disseminate and maintain in current status a county emergency management plan which that addresses in detail the response to and recovery from major emergencies occurring in

Marion County. This plan, and that shall be the sole emergency management plan for the county and shall be filed in the office of the Marion County clerk. Nno police or private organizations shall develop emergency operating or disaster plans or procedures which that are in conflict with the county emergency management plan except where specifically authorized by ordinance, statute or federal law or regulation.

- (3) Designate and manage an emergency operations center to which senior government officials and chief coordinators designated in the county emergency management plan may respond to formulate and disseminate decisions regarding the management of a major emergency; the emergency management planning division of homeland security may also designate such auxiliary emergency operations centers as may be necessary.;
- (4) Coordinate the development and execution of tests, drills and exercises of the <u>county</u> emergency management system plan or any of its parts-;
- (5) Be responsible for monitoring hazardous conditions of any kind in the county, making recommendations to the director of public safety and the mayor concerning emergency measures and activating the county emergency management plan after the declaration of a local disaster emergency by the mayor and for coordinating response and recovery operations associated with a major emergency-;
- (6) Serve as the civil defense agency for Marion County county emergency management organization for the purposes of IC 10-4-1-1 through IC 10-4-1-27 10-14-3 and shall have all the powers and duties of a department of civil defense under such statutes.; and
- (7) Be authorized to seek and apply for grants, contracts and other sources of funding necessary or in support of its duties from the federal government, state government and nongovernmental public and private sources.

Sec. 251-404. Board of public safety.

- (a) The board of public safety shall exercise general supervision over the emergency management program of the county.
- (b) The board of public safety shall act as the "county civil defense advisory council" for all of Marion County for the purposes of IC 10-4-1 and shall have and exercise all the powers, duties and obligations under the act.

Sec. 251-405 251-404. Administrator Chief; staff.

- (a) The emergency management planning division of homeland security shall have an administrator be under the direction of a chief, who shall be appointed by the board director of the department of public safety and shall serve at the pleasure of the presiding officer director. of the board. The administrator shall serve as the county civil defense and disaster director for the purposes of IC 10-4-1 and shall have all the powers and duties of a civil defense and disaster director pursuant to such statutes.
- (b) The administrator chief shall be responsible for such paid and voluntary staff members as are necessary to fulfill the duties of the emergency management planning division of homeland security. Such staff members shall be subject to any merit system requirements necessary to participate in state and federal funding programs. The emergency management planning division of homeland security may organize such volunteer units, emergency reservist and others as may be necessary to fulfill its duties.

Sec. 251-406. Merit system.

The establishment of a merit system of personnel administration for all employees of the division of emergency management planning of the department of public safety homeland security to be serviced by the state personnel division is hereby authorized. The director of emergency management planning the department of public safety is authorized and directed to enter into such arrangements and agreements with the state department of civil defense homeland security and state personnel division department as

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may be necessary to provide for a continuing merit program of personnel administration for all emergency management planning division of homeland security employees. The merit program shall be serviced by the state personnel division department pursuant to the authority granted by section 37, chapter 139, Acts of 1941, page 387 of the state personnel act IC 4-15-2-36 and shall meet federal merit system standards of the U.S. Department of Defense, including the exemption of any position from the merit program as is recognized in these same federal standards. For the purposes of administering the merit program for all employees of the division, the director of emergency management planning the department of public safety is hereby considered and designated as the appointing officer.

Sec. 251-407. Emergency communications and warning.

- (a) The emergency management planning division of homeland security shall coordinate the development of an emergency communications and warning system which that will allow for the dissemination of warning to potential responders and the general public, to effect the notification of appropriate response agencies and individuals and to distribute and receive information to and from potential emergency responders and the general public regarding an emergency condition.
- (b) The division shall develop and maintain an integrated system for warning the public, which may include the deployment of public warning sirens, the development of voice radio systems, coordination of the mobilization of cable television systems, coordination of the county's participation in the emergency broadcast system, and any other appropriate systems which that may become available.

Sec. 251-408. Emergency powers and procedure.

- (a) The mayor shall, via executive order, designate a line of successors to establish which government officials may act in his or her place whenever:
 - (1) Under IC 36-3-3-3, the mayor is incapacitated and unable to make a designation and the president of the city-county council, as determined by the rules of succession established by the council, is incapacitated to the extent that he or she is unable to perform the duties as acting mayor; or
 - (2) The office of mayor becomes vacant and the chief deputy mayor is unable to assume the duties of that office as provided in IC 3-13-11.
- (b) The mayor may, upon declaring a local disaster emergency, take such actions as are appropriate to assure the public well-being, safety of public and private property and the environment including, but not limited to, the imposition of travel bans on streets and highways; the imposition of curfews; the alteration of normal business working hours; the ordering of evacuation and relocation of civilian populations; all as may be necessary to effect emergency response and recovery.
- SECTION 6. Section 851-406 of the "Revised Code of the Consolidated City and County," regarding emergency use of cable television facilities, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 851-406. Emergency use of facilities.

- (a) In the case if any disaster duly declared by the mayor or other official legally able to declare a disaster, the operator shall, upon request of the mayor, director of public safety or director chief of the city's emergency management division of homeland security, make available to the city for emergency use during the disaster period all facilities, as are necessary, for the term of such disaster.
- (b) The system shall incorporate an emergency alert system that permits the city to override the audio portions of all signals on all channels which that the operator may lawfully override. The operator shall design the emergency alert system to permit the city to do the following:
 - (1) Access and activate the emergency alert system using a touch-tone telephone and a special security code. The telephone can be connected to the emergency alert system via the local exchange company or a dedicated connection installed by the operator.

- (2) Replace audio on all channels with an emergency message that may be originated from a single location to be designated by the city using a telephone and character generator.
- (3) Play back a prerecorded message over the emergency alert system.

The operator's obligations under this section include the obligation to provide equipment for the system required to ensure the system works and complies with FCC regulations. The operator shall work with the city to develop a plan for the regular testing of the emergency alert system. However, it is the sole responsibility of the city to determine whether and under what circumstances the emergency alert system shall be used for county-wide alerts. City shall indemnify and hold operator harmless for any claim arising from the city's use of the emergency alert system.

SECTION 7. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 8. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 9. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of ______, 2010, at _____ p.m.

ATTEST:

Ryan Vaughn
President, City-County Council

Melissa Thompson
Clerk, City-County Council

Presented by me to the Mayor this _____ day of ______, 2010, at 10:00 a.m.

Melissa Thompson
Clerk, City-County Council

Approved and signed by me this _____ day of ______, 2010.

Gregory A. Ballard, Mayor